

Message Text

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PAGE 01 PARIS 08856 091306Z

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ACTION L-02

INFO OCT-01 EUR-12 ISO-00 JUSE-00 SCA-01 SY-05 SCCT-01

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P 091243Z APR 75

FM AMEMBASSY PARIS

TO SECSTATE WASHDC PRIORITY 8281

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E.O. 11652: N/A

TAGS: CPRS, PFOR, FR

SUBJECT: EXTRADITION - HOLDER/KERKOW

REF: A. STATE 78361; B. STATE 74052

1. CONGEN CALLED APRIL 8 ON MUSEUX, QUAI ACTING LEGAL ADVISER (DE LACHARRIERE IS STILL IN GENEVA) TO DISCUSS USG POSITION THAT FRANCE HAS TREATY OBLIGATION TO SURRENDER FUGITIVES TO U.S. MUSEUX, WHO HAD READ MEMORANDUM OF LAW (REF B), STATED THAT GOF POSITION DIFFERS FROM U.S. ON SEVERAL POINTS.

2. IN FIRST PLACE, FRENCH JURISPRUDENCE GIVES MORE WEIGHT TO QUESTION OF MOTIVE IN CONSIDERING POLITICAL NATURE OF OFFENSE THAN DOES U.S. FRENCH DO NOT ACCEPT ARGUMENT THAT OFFENSE MUST BE DIRECTLY RELATED TO REVOLUTIONARY MOVEMENT OR CIVIL WAR IN ORDER TO BE CONSIDERED POLITICAL. WHILE PRECEDENTS IN FRANCE ARE NOT ENTIRELY CONSISTENT, IN GENERAL FRANCE INTERPRETS POLITICAL ASPECT OF CRIMES MORE BROADLY THAN DOES U.S.

3. ON SUBJECT OF HIJACKING, MUSEUX STATED THAT GOF DOES NOT ACCEPT TERM "AIR PIRACY" TO DESCRIBE SUCH CRIMES, BECAUSE IT HOLDS THAT PIRACY IS ALWAYS A CRIME IN COMMON LAW, WHEREAS ILLEGAL SEIZURE OF AIRCRAFT MAY, ACCORDING TO CIRCUMSTANCES, BE CONSIDERED EITHER

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PAGE 02 PARIS 08856 091306Z

COMMON CRIME OR POLITICAL OFFENSE.

4. MUSEUX STATED THAT CHAMBRE D'ACCUSATION HAD NOT ASKED FOR OPINION OR INTERPRETATION FROM THE QUAI ON HOLDER CASE, AND THAT QUAI HAD PROVIDED NONE. HE REMARKED THAT PROCEDURE JUSTICE MINISTRY HAD PERMITTED EMBASSY TO FOLLOW IN VOLUNTEERING ADDITIONAL DOCUMENTATION NOT REQUESTED BY THE COURT, AFTER HEARING OF CASE HAD BEEN CONCLUDED, WAS "EXCEPTIONAL". HE ADDED THAT FOR QUAI OR OTHER EXECUTIVE DEPARTMENT TO OFFER OPINION UNSOLICITED BY THE COURT WOULD BE OUT OF ORDER.

5. IT IS CLEAR THAT THERE ARE SUFFICIENT DIVERGENCIES OF OPINION BETWEEN FRANCE AND U.S. ON EXTRADITION JURISPRUDENCE TO MAKE IT IMPOSSIBLE FOR FORMER FULLY TO ESPOUSE OUR POSITION. IN ANY EVENT, IT SEEMS EQUALLY CLEAR THAT, EVEN IF FRENCH AGREED WITH US COMPLETELY, THEY WOULD BE UNWILLING TO TRY TO INFLUENCE COURT'S DECISION. FOR OUR PART, WE DO NOT BELIEVE IT WOULD BE PRODUCTIVE OR PROPER TO URGE THEM TO DO SO.

RUSH

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